

## **REMARKS**

This is responsive to the final Office Action mailed March 20, 2006. As the Action is final, this is accompanied by an RCE together with the required fee.

### **Claim Objections**

It is required to replace the term "comprising" with --comprising the steps of--. Applicant has complied, it being understood that no change in the scope or meaning of the claims has been effected.

### **Section 112 Rejection--Claim 59**

The Examiner states that the following steps in claim 59 are not clear:

pushing on the handle member so as to unlock the toggle bar from the closed position; and

releasing the handle member subsequent to said step of pushing, wherein the toggle bar is automatically pulled toward the hole plug, to automatically adjust the safety toggle bolt to the depth of the hole.

As just one example of how this can work, please refer to Figures 2C and 2D in connection with the following discussion.

Referring particularly to Figure 2C, the flexible wire cable 12 is first forced in the direction of the arrows, by a user pushing on the handle (particularly pushing on the proximal end 11a of the handle member 11 shown in Figure 1), which pushes the toggle bar 14 away from the hole plug 22, and which also compresses the coil spring 23.

Next, the handle member is released and so the flexible wire cable 12 is forced back in the opposite direction by the compressed coil spring 23. The cable pulls the toggle bar back

along with it, toward the hole plug 22 such as shown in Figure 2D.

In short, the toggle bar is first pushed in one direction by the user and then pulled back in the other direction by the spring.

Please note that claim 59 does not recite: “the toggle bar is automatically *release[d]* from the hole plug” as alleged in the Office Action. Rather, the claim recites: “the toggle bar is automatically *pulled toward* the hole plug.” These are different actions--releasing the toggle bar from the hole plug corresponds to Figure 2C, while pulling the toggle bar toward the hole plug corresponds to Figure 2D.

### Section 103 Rejections

Claims 34 and 35 stand rejected under 35 USC §103(a) as being unpatentable over Onofrio, U.S. Patent No. 5,702,218 (“Onofrio”) in a view of Temple et al., U.S. Patent No. 3,332,118 (“Temple”), and further in view of Hamlin, U.S. Patent No. 4,615,514 (“Hamlin”).

It is agreed that Onofrio does not disclose (1) a flexible cable with a toggle bar connected to a distal end, and (2) a locking engagement between a toggle bar and a hole plug.

However, to supplement Onofrio with regard to (1), the Examiner states that Temple teaches a flexible member. To supplement Onofrio with regard to (2), the Examiner states that Hamlin teaches a recess capable of receiving and holding a toggle bar in a closed position.

Applicants respectfully traverse the rejections.

#### Onofrio in view of Temple

Obviousness requires a teaching or suggestion to make the substitution, combination, or modification. MPEP 2142 *et seq.* While it is certainly true that the cable of Temple *could* be substituted for the rod of Onofrio, there is no teaching or suggestion in either reference or in the prior art generally why it would be desirable to do so. Therefore, the requirements for producing a *prima facie* case have not been met.

And it is not the Applicant’s burden to show why it is important to do what is claimed in advance of some showing why (or how) the prior art teaches or suggests what is claimed.

Notwithstanding, in response to the Examiner’s statement that “applicant has not shown . . . why it is important to use a flexible cable instead of a rod,” please note that the specification,

at page 6, lines 1 - 6 provides at least one reason why a cable is structurally advantageous as compared to a rod in the context of the claimed invention.

Onofrio in view of Hamlin

Turning to the allegation regarding Hamlin, the Examiner is apparently asserting that Hamlin teaches a plug, the “pipe junction member 36,” having a recess that would be capable of receiving and locking the ends of the “arm like members” 20 and 22 in a closed position as claimed.

The only way there would be such a capability is if both the pipe junction member 36 and the arm-like members 20 and 22 were actually adapted so they could function as claimed. But inspection of Hamlin shows they are not. The recess in the pipe junction member 36 is clearly too wide to maintain the arm-like members 20 and 22 in the closed position shown in Figures 2, 3, and 5. These parts could be modified so that they would be capable of performing as claimed, but that is irrelevant absent a teaching or suggestion to make the modification, and there is no such teaching or suggestion.

In any event, it is dispositive that the pipe junction member 36 in Hamlin is not a hole plug as required by claim 34. Such a hole plug must have the following characteristics:

said hole plug having a hole plugging portion for centering said plug in the hole and a lip portion for fixing the position of said plug against the object.

The pipe junction member 36 of Hamlin does not meet these explicit claim requirements, and there is not even an alleged teaching or suggestion to modify the pipe junction member 36 so that it would meet these requirements.

Claims 46 - 59 stand rejected as being unpatentable over Onofrio in view of Temple, Hamlin and Burbidge, U.S. Patent No. 5,209,621 (“Burbidge”--cited as disclosing a toggle bar return spring). Applicants respectfully traverse the rejections.

Claims 46 - 56

Claims 46 - 56 are patentable at least because claim 34 is patentable, the additional limitations in combination with the features of claim 34 providing additional bases for

patentability that need not be discussed.

Claims 58 and 59 are independent claims that are patentable for at least the following reasons:

Claim 59

Burbidge is cited as disclosing a toggle bar return spring. But claim 59 does not recite any limitation to which a toggle bar return spring is relevant. That is, a “toggle bar return spring” does not provide the action recited in claim 59, i.e., “wherein the toggle bar is automatically pulled toward the hole plug.”

Hamlin does not teach or suggest this action either, so the claim is patentable over both Hamlin and Burbidge.

Claim 58

Claim 58 recites:

providing a safety toggle bolt having a handle member and a toggle bar  
pivotally connected to the handle member;

locking the toggle bar in a closed position;

inserting the safety toggle bolt through the hole; and

pushing on the handle member so as to unlock the toggle bar from the  
closed position, wherein the toggle bar automatically opens to an  
open position.

A toggle bar return spring would be one way of achieving the action “wherein the toggle bar automatically opens to an open position.” However, claim 58 also requires locking the toggle bar in a closed position prior to arranging for the toggle bar to automatically open. There is no reason or motivation to provide for such locking in Burbidge, since the “wing assembly 18” automatically collapses under any force encountered when inserting the assembly through a hole-

-there is no further need to "lock" the wing assembly 18 in a closed position for insertion.  
Burbidge does not teach or suggest locking regardless of how it might be achieved.

Hamlin is the only one of the references cited that teaches locking of any kind. But Hamlin locks its wing assembly by providing a washer 32 and cables 24 and 26 ("collapsing assembly"). With reference to Col. 3, lines 15 - 17, the wing assembly is "allowed to open" as a result of releasing the collapsing assembly. This is nothing at all like "pushing on . . . [a] handle member so as to unlock the toggle bar from the closed position" as claimed in claim 58.

Therefore, it is respectfully submitted that the claims are in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Garth Janke', is written over the printed name.

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